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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/607,913

06/30/2000

Eduardo Cue

P2514/001580-569

1176

7590

03/06/2006

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EXAMINER

RHODE JR, ROBERT E

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/607,913	CUE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rob Rhode	3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 30, 32 - 34, 36 - 38 and 40 - 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 30, 32 - 34, 36 - 38 and 40 - 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12-23-05 has been entered.

### ***Response to Amendment***

The applicant's amendment of 12-23-05 amended claims 1, 8, 15, 22, 29, 33, 37 and 41 and traversed the rejection for claims 1 – 30, 32 – 34, 36 – 38 and 40 – 44 as well as canceled claims 31, 35 and 39.

Currently claims 1 – 30, 32 – 34, 36 – 38 and 40 – 44 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 – 30, 32 – 34, 36 – 38 and 40 – 44 are rejected under 35 U.S.C.**

**102(e) as being anticipated by Dodd (US 6,633,849 B1)**

Regarding claim 1 and related claims 8, 15, 22, 29, 33, 37 and 41 (previously presented), Dodd teaches a method and system for completing purchase transactions over a computer network, the method comprising:

- receiving order selections from a computer of a first user;
- saving stored order data, the stored order data including the order selections;
- generating a web page having an address and containing the order selections and order purchase information from the stored order data;
- in response to a first user request, automatically producing and sending an electronic mail message having the address of the web page to a recipient and generated from the stored\_order data;
- in response to a request from the recipient, providing said web page to the recipient;
- and
- in response to a request provided via said web page from the recipient to purchase the order selections in the stored order data, completing the sale of said order selections to said recipient. (see at least Abstract, Col 2, lines 23 – 54, Col 3, lines 30 – 55, Col 6, lines 33 – 42, Col 10, lines 33- 43, Col 12, lines 47 - 54 and Figure 5).

Please note that “the stored order data” such as “order selections and purchase information” are considered to be non-functional descriptive material (MPEP 2106). For

example, online methods and systems for transmitting and receiving “stored data” such as “order selections and purchase information” such specifics of the transmitted *stored data* are given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant’s invention from Dodd, which both disclose transmitting as well as receiving stored data. Thereby, the non-fictional descriptive material is directed only to the content of the data being transmitted and received (. i.e. order selections and order purchase information - which is stored data) and does not affect either the structure or method/process of Dodd, which leaves the method and system unchanged. In this manner, the reference discloses a method and system for transmitting, receiving and responding to transmitted “stored data” by a recipient for purchase, which was old and well known at the time of the Applicant’s invention. Please note and in reconsidering the Applicant’s amended claim wording that “order selections” in a reasonably broad interpretation for examination purposes included gift certificates, which can then be used as taught by Dodd to purchase items by the recipient and thereby complete a purchase transaction.

Regarding claim 2 and related claims 9, 16 and 23 (Original), Dodd teaches a method and system, further comprising producing a display of the stored order for potential purchase by the recipient (Figure 5)

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Regarding claim 3 and related claims 10, 17 and 24 (Original), Dodd teaches a method and system, wherein the display-producing step comprises producing a web page display of the stored order for purchase by the recipient (Col 12, lines 48 - 52).

Regarding claim 4 and related claims 11, 20 and 28 (Original); Dodd teaches a method and system, wherein the electronic mail message includes a URL which allows for the construction of a web page displaying the stored order (Col 4, line 26 and lines 44 - 46).

Regarding claim 5 and related claims 12, 18 and 25 (Original), Dodd teaches a method and system, wherein the stored order includes a single item (see at least Col 4, lines 52 - 59).

Regarding claim 6 and related claims 13, 19 and 26 (Original), Dodd teaches a method and system, wherein the stored order includes a main item and at least one accessory (see at least Col 4, lines 52 - 53).

Regarding claim 7 and related claims 14, 21 and 27 (Original), Dodd teaches a method and system, wherein the step of receiving the order selections includes providing an electronic display of possible selections for the user (see at least Figures 1A – 2F).

Regarding claim 30 and related claims 34, 38 and 42 (Original), Dodd teaches a method and system, wherein the first and second order selections are selected from a web page from an electronic commerce site (see at least Abstract and Col 1, lines 34 - 51)

Regarding claim 32 and related claims 36, 40 and 44 (Previously Presented), Dodd teaches a method and system, wherein the display of a web page for the first or second orders includes a link to a display of the items of the first order and a display of the items of the second order (see at least Figures 1A-2F).

Regarding claim 43 (Previously Presented), Dodd teaches a method and system wherein the display of the first and second stored orders comprise a web page (see at least Figures 1A-2F).

### ***Response to Arguments***

Applicant's arguments filed 12-12-05 have been fully considered but they are not persuasive.

Applicant argues that the independent claims disclose that the email is sent to the purchaser before the transaction is completed.

As noted above, Dodd teaches that order selection is made such as a gift certificate and in turn the recipient upon receipt of the an email can then purchase a gift,

which cost less than the order selection of a gift certificate(s). If the purchase is less than the amount of the order selection (. i.e. gift certificate), the recipient can purchase another item equivalent to the amount remaining and thereby complete the transaction. Thereby, the claims as currently worded do not constraint the interpretation as argued by the Applicant to only sending suggestions for purchase to a recipient.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Knowlton (US 6,601,057), which teaches the selecting and sending of a wish list to a recipient for consideration and purchasing (see at least abstract and Col 15, lines 21 – 37). In addition, Chow (US 6,850,899 B1) discloses sending an item selected by one individual at Dell site and sending the selection to another recipient for review and purchase (see at least Abstract and Col 1, lines 32 – 38).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***



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***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

Or faxed to:

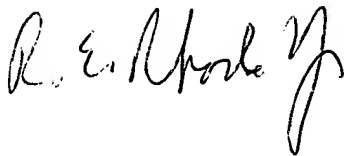
**571.273.8300**

[Official communications; including

After Final communications labeled

"Box AF"]

RER

A handwritten signature in black ink, appearing to read "R. E. Rouse" followed by a stylized flourish.